

REMARKS

Reconsideration and withdrawal of the rejections of the claims set forth in the Final Official Action of January 21, 2004 are respectfully requested in view of the following remarks.

Claims 1 and 12 have been amended. Support for the amendments can be found throughout the specification and claims as originally filed and there is no new matter added as a consequence of the amendments.

Status of the Claims

Claims 1-19 are pending.

Claims 14-19 have been withdrawn.

Claims 1-13 are under consideration.

Claims 1-13 are rejected under 35 U.S.C. § 103.

Rejection under 35 U.S.C. § 103(a)

The Examiner maintains that claims 1-13 are unpatentable over Ahluwalia (US Patent No. 5,965,257) in view of GB 2167060 (GB '060) or Dombeck (US Patent No. 6,228,497) or Dugan et al. (US Patent No. 4,994,317) under 35 U.S.C. § 103(a). As indicated in the Final Office Action, the Examiner maintains that it would have been obvious to one of skill in the art to use the clay filler of GB '060, Dombeck or Dugan et al. in the structural article of Ahluwalia, when motivated by the desire to increase the flame and heat resistance of the article. The Examiner further maintains that the amounts of glass fibers, clay filler, and binder material in the composition are result effective variables, which may be optimized if motivated by the desire to obtain an article with increased strength and flame resistance.

In the Amendment After Final mailed April 21, 2004, the Applicants proposed an amendment to claims 1 and 12 to insert the phrase “wherein the fire resistant fabric material is drapable.” In the Advisory Action mailed May 13, 2004, the Examiner indicated that the proposed amendment was not entered, because it required a new search. Furthermore, the Examiner indicated that the structural article of Ahluwahlia is flexible enough to be folded into rolls and should allegedly have some degree of drapability.

Applicants respectfully disagree. Applicants assert that there are clear differences in the physical properties of the structural article taught by Ahluwahlia and the fire resistant fabric material of the present invention. Ahluwahlia discloses a structural article that is “rigid in nature,” (Ahluwahlia, col. 6, lines 32-33), which would not motivate one of skill in the art to modify the structural article to incorporate drapability characteristics. The verb, drape, is defined as “to cover or adorn with or as if with folds of cloth,” or “to cause to hang or stretch out loosely or carelessly,” or “to arrange in flowing lines or folds” (Merriam-Webster Online Dictionary at www.m-w.com, 2004). The fire resistant fabric material of the present invention is flexible, pliable and exhibits excellent drapability characteristics, providing a fabric material useful for mattress fabrics, draperies, fire-resistant clothing, etc. In contrast, Ahluwahlia’s structural article is “rigid in nature” and only “flexible enough to be rolled up.” (Ahluwahlia, col. 6, lines 32-33). Ahluwahlia’s structural article cannot hang loosely or form folds. Ahluwahlia fails to provide any motivation to the skilled artisan to modify the structural article to incorporate drapability characteristics. Ahluwahlia also fails to motivate one of skill in the art to combine Ahluwahlia with a drapable fabric patent, *e.g.*, Dugan, the only cited secondary reference that is a drapable fabric. Therefore, Applicants respectfully submit that the cited art does not render the subject matter recited in amended claims 1 and 12 obvious.

Moreover, in the interest of furthering prosecution and without conceding the correctness of the Examiner's rejections or advisory comments, Applicants have amended claims 1 and 12 to recite a fire resistant fabric material that is drapable and, further, has a porosity of between 5 and 50 cfm. Support for the amendments can be found at, e.g., page 19, paras. 42, 43 and page 13, para. 28.

With regard to porosity, Ahluwahlia's structural articles exhibit a lower porosity of, e.g., 3.5 cfm (col. 7, line 56), and preferably less than 1.0 cfm (col. 6, lines 35 and 40). Air porosity (cfm) is a measure of the volume of air, in cubic feet, that will pass through a fabric in one minute, *i.e.* cubic foot per minute. As one of skill in the art would readily appreciate, more air can pass through a fixed area of a drapable fabric item than a fixed area of the coated structural article as taught by Ahluwahlia. Therefore, Applicants submit that the amendments to claims 1 and 12 render the presently claimed fire resistant fabric material patentable over Ahluwahlia in view of GB '060, Dombeck or Dugan et al.

In addition, Applicants submit that claims 2-11 and 13, which depend from allowable claims 1 and 12, respectively, and are also allowable.

For the foregoing reasons, Applicants submit that claims 1-13 are patentable under 35 U.S.C. § 103(a), and request the withdrawal of the rejection.

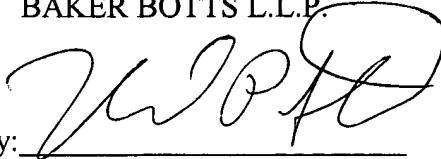
CONCLUSION

In view of the foregoing remarks, Applicant respectfully requests withdrawal of the rejections and allowance of the pending claims.

Applicant requests a three month extension of time and encloses herewith the requisite fee as set forth in 37 C.F.R. § 1.17(a)(3). Applicant does not believe that any additional fee is required in connection with the submission of this document. However, should any fee be

required, or if any overpayment has been made, the Commissioner is hereby authorized to charge any fees, or credit any overpayments made, to Deposit Account 02-4377.

Respectfully submitted,
BAKER BOTTS L.L.P.

By: 
Neil P. Sirota
Patent Office Reg. No. 38,306

Kimberly J. McGraw
Patent Office Reg. No. 50,994

30 Rockefeller Plaza
New York, NY 10112
(212) 408-2500
Attorneys for Applicant